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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,340	08/04/2003	George Nissen	11176.06	6756

7590 11/22/2006

The Law Office of Steven G. Roeder
5560 Chelsea Avenue
La Jolla, CA 92037

EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,340

Applicant(s)

NISSSEN ET AL.

Examiner

Fenn C. Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,10-15 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-9,16,18 and 19 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 08/04/03 11/24/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group VI in the reply filed on 09/13/2006 is acknowledged. The traversal is on the ground(s) that only a few claims are affected. This is not found persuasive because Applicant has admitted on the record that the species are patentably distinct. The number of claims affected are irrelevant.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 2, 4, 10-15, and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 09/13/2006.

Claim Rejections - 35 USC § 102/103

3. Claims 1, 6-9, 16, are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hsia (U.S. 6,539,564. Hsia discloses as broadly interpreted a base frame having a substantially non-rectangular perimeter, (rectangular middle portion and perpendicular arcuate end portions define perimeter), a plurality of legs (12) that support the perimeter region above a support surface, a bed suspension assembly that includes a plurality of resilient members (22a, 22b) and a bed that is attached to the base frame with the bed suspension assembly to place the bed in tension, the bed having substantially parallel first sides. Hsia appears to have approximately 25 percent of the total perimeter curved. To the extent that Hsia

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does not teach such a feature, it would have been obvious to have at least 25 percent of the perimeter curved as a matter of ordinary design choice. Referring to claim 6, Hsia teaches a first side section coupled to the base frame including an inner linear side and an outer arcuate side. Referring to claim 7, Hsia teaches a second side section coupled to the base frame including an inner linear side and an outer arcuate side. Referring to claim 8, as broadly claimed, Hsia teaches a plurality of resilient members (32A, 32B) supporting the first side section and the second side section. Referring to claim 9, Hsia teaches the first inner side of the first side section and the second inner side of the second side section substantially parallel to the first pair of sides of the bed. Referring to claim 16, the claims limitations are substantially similar in scope to claims 1 and 6-7 above. Note rejections above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Southwood (U.S. 3,031,688). Referring to claim 1, Southwood discloses, as broadly claimed, a base frame (10) having a substantially non-rectangular

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perimeter region and a plurality of legs (17) that are coupled to the perimeter region and that support the perimeter region wherein at least approximately 25 percent of the total length of the perimeter region is curved, a bed suspension assembly that includes a resilient member (24), and a bed (23) attached to the base frame with the bed suspension assembly to place the bed in tension, the bed having a pair of substantially parallel sides (note portions of the bed extend in substantially parallel directions).

Southwood fails to teach the use of a plurality of resilient members. The use of a plurality of resilient members as opposed to a single resilient member is matter of ordinary design choice notoriously old and well known in the art (note art cited but not applied). It would have been obvious to one of ordinary skill in the art to provide the Southwood device with a plurality of resilient members as opposed to a single resilient member as an art-recognized alternative, and to provide additional bounce characteristics. Referring to claim 3, Southwood teaches the bed having arc shaped sides. Referring to claim 5, Southwood teaches a circular shaped base frame.

Referring to claim 18-19, note that Southwood as modified above has disclosed the claimed structural limitations. The method of providing the device would have been obvious to one of ordinary skill in the art.

Allowable Subject Matter

6. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including **all of the limitations of the base claim and any intervening claims**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

F.C.M.

F. C. Mathew
November 17, 2006